

STATE OF SOUTH CAROLINA

(Caption of Case)

IN THE MATTER OF PETITION OF SPRINT  
COMMUNICATIONS COMPANY L.P. AND  
SPRINT SPECTRUM L.P. D/B/A SPRINT PCS FOR  
ARBITRATION OF RATES, TERMS AND  
CONDITIONS OF INTERCONNECTION WITH  
BELLSOUTH TELECOMMUNICATIONS,  
INCORPORATED D/B/A AT&T SOUTH  
CAROLINA D/B/A AT&T SOUTHEAST

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET  
NUMBER: 2007 - 215 - C

(Please type or print)  
Submitted by: Patrick W. Turner

SC Bar Number: 6566

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda  
expeditiously

☒ Other: Surrebuttal Testimony of J. Scott McPhee and P. L. (Scot) Ferguson

INDUSTRY (Check one)

- ☐ Electric  
☐ Electric/Gas  
☐ Electric/Telecommunications  
☐ Electric/Water  
☐ Electric/Water/Telecom.  
☐ Electric/Water/Sewer  
☐ Gas  
☐ Railroad  
☐ Sewer  
☒ Telecommunications  
☐ Transportation  
☐ Water  
☐ Water/Sewer  
☐ Administrative Matter  
☐ Other: \_\_\_\_\_

NATURE OF ACTION (Check all that apply)

- |                                                    |                                                            |                                                    |
|----------------------------------------------------|------------------------------------------------------------|----------------------------------------------------|
| <input type="checkbox"/> Affidavit                 | <input checked="" type="checkbox"/> Letter                 | <input type="checkbox"/> Request                   |
| <input type="checkbox"/> Agreement                 | <input type="checkbox"/> Memorandum                        | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer                    | <input type="checkbox"/> Motion                            | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review          | <input type="checkbox"/> Objection                         | <input type="checkbox"/> Resale Agreement          |
| <input type="checkbox"/> Application               | <input type="checkbox"/> Petition                          | <input type="checkbox"/> Resale Amendment          |
| <input type="checkbox"/> Brief                     | <input type="checkbox"/> Petition for Reconsideration      | <input type="checkbox"/> Reservation Letter        |
| <input checked="" type="checkbox"/> Certificate    | <input type="checkbox"/> Petition for Rulemaking           | <input type="checkbox"/> Response                  |
| <input type="checkbox"/> Comments                  | <input type="checkbox"/> Petition for Rule to Show Cause   | <input type="checkbox"/> Response to Discovery     |
| <input type="checkbox"/> Complaint                 | <input type="checkbox"/> Petition to Intervene             | <input type="checkbox"/> Return to Petition        |
| <input type="checkbox"/> Consent Order             | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation               |
| <input type="checkbox"/> Discovery                 | <input checked="" type="checkbox"/> Prefiled Testimony     | <input type="checkbox"/> Subpoena                  |
| <input type="checkbox"/> Exhibit                   | <input type="checkbox"/> Promotion                         | <input type="checkbox"/> Tariff                    |
| <input type="checkbox"/> Expedited Consideration   | <input type="checkbox"/> Proposed Order                    | <input type="checkbox"/> Other: _____              |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest                           |                                                    |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit             |                                                    |
| <input type="checkbox"/> Late-Filed Exhibit        | <input type="checkbox"/> Report                            |                                                    |

Print Form

Reset Form



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August 6, 2007

The Honorable Charles Terreni  
Chief Clerk of the Commission  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Re: In the Matter of Petition of Sprint Communications Company L.P. and Sprint Spectrum L.P. d/b/a Sprint PCS for Arbitration of Rates, Terms and Conditions of Interconnection with BellSouth Telecommunications, Incorporated d/b/a AT&T South Carolina d/b/a AT&T Southeast  
Docket No. 2007-215-C

Dear Mr. Terreni:

Enclosed for filing are an original and (1) copy of BellSouth Telecommunications, Inc., d/b/a AT&T South Carolina's Surrebuttal Testimony of J. Scott McPhee and P. L. (Scot) Ferguson in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of this testimony as indicated on the attached Certificate of Service.

Sincerely,

Patrick W. Turner

PWT/nml  
Enclosure  
cc: All Parties of Record  
DM #686592

**THIS DOCUMENT IS AN EXACT DUPLICATE OF THE E-FILED COPY SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS.**

1                                   AT&T SOUTH CAROLINA’S  
2                                   SURREBUTTAL TESTIMONY OF J. SCOTT MCPHEE  
3   BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
4                                   DOCKET NO. 2007-215-C  
5                                   AUGUST 6, 2007

6

7   Q.     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

8

9   A.     My name is J. Scott McPhee. My business address is 2600  
10         Camino Ramon, San Ramon, California.

11

12   Q.     ARE YOU THE SAME SCOTT MCPHEE THAT FILED  
13         DIRECT TESTIMONY IN THIS CASE?

14

15   A.     Yes. My Direct Testimony was filed in this Docket on July 23,  
16         2007.

17

18   Q.     PLEASE EXPLAIN THE PURPOSE OF YOUR  
19         SURREBUTTAL TESTIMONY.

20

21   A.     The purpose of my testimony is to rebut testimony filed by Sprint  
22         witness Mark G. Felton as it pertains to certain characterizations of  
23         the status of prior negotiations between AT&T and Sprint; as well

1 as to briefly comment on Mr. Felton's characterizations of whether  
2 this merger commitment is arbitrable before this state Commission.

3

4 Q. ON PAGE 4 OF HIS REBUTTAL TESTIMONY, MR. FELTON  
5 TAKES ISSUE WITH YOUR CHARACTERIZATION THAT  
6 SPRINT BROKE OFF NEGOTIATIONS, INSTEAD INSISTING  
7 IT WAS AT&T THAT CEASED DISCUSSIONS. COULD YOU  
8 ADDRESS THAT TESTIMONY?

9

10 A. Yes. This appears to be a case in which Mr. Felton and I basically  
11 agree on most of the facts. Not surprisingly, our main  
12 disagreement appears to be in the way we view the practical effect  
13 of those facts.

14

15 AT&T and Sprint had been negotiating a successor interconnection  
16 agreement since mid-2004, and the parties were well on the way to  
17 working out specific language addressing the issues that were  
18 discussed during negotiations.<sup>1</sup> When the merger commitment was  
19 announced, AT&T wanted to continue to finalize that language and  
20 execute a successor agreement that was consistent with those  
21 negotiations.

22

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<sup>1</sup> AT&T's view is that the parties had reached agreement in principle on outstanding issues other than the Attachment 3 issue and that the

1 Sprint, on the other hand, did not want to continue finalizing  
2 language and execute a successor agreement that was consistent  
3 with the negotiations. Instead, upon announcement of the merger  
4 commitment, Sprint wanted to simply extend the prior  
5 interconnection agreement. Mr. Felton appears to characterize this  
6 as Sprint's willingness to continue negotiation of a "successor"  
7 interconnection agreement.

8  
9 AT&T does not agree with this characterization. Extending the  
10 prior agreement and negotiating a new and updated successor  
11 agreement are, in AT&T's view, two entirely different things.  
12 AT&T is not willing to extend the prior agreement beyond  
13 December 31, 2007 (which, as explained in my Direct Testimony,  
14 is the extension contemplated by the merger commitment), but as I  
15 presented in my Direct Testimony, AT&T remains committed to  
16 continued negotiations with Sprint so that the parties may reach  
17 accord over all provisions of their successor interconnection  
18 agreement.

19  
20 Q. ALSO ON PAGE 4, MR. FELTON TAKES ISSUE WITH  
21 WHETHER "SOME" OR "ALL" OUTSTANDING ISSUES HAD  
22 BEEN RESOLVED REGARDING NEGOTIATIONS OF THE

---

parties had agreed upon the *concepts* under which the Parties would  
operate under Attachment 3. Sprint apparently has a different view.

1           SUCCESSOR AGREEMENT. DOES MR. FELTON DESCRIBE  
2           ANY UNRESOLVED ISSUES?

3

4     A.     No, he does not. On page 4 of his Rebuttal Testimony, Mr. Felton  
5           states “[i]n fact, as I stated in my July 9, 2007 Direct Testimony at  
6           page 9, the parties continued to struggle with a few critical issues  
7           and it was unclear at best whether final resolution would be  
8           reached.” Page 9 of Mr. Felton’s Direct Testimony, however,  
9           provides no details of any outstanding issues, other than to say  
10          “there remain substantive areas of dispute.”

11

12    Q.     ON PAGE 8 OF HIS REBUTTAL TESTIMONY, MR. FELTON  
13           TESTIFIES THAT HE BELIEVES AT&T’S MERGER  
14           COMMITMENTS ARE PROPERLY THE SUBJECT OF A  
15           SECTION 252 ARBITRATION PROCEEDING. ARE YOU  
16           AWARE OF ANY STATE COMMISSIONS THAT HAVE  
17           ADDRESSED THIS ISSUE?

18

19    A.     Yes. Since my Direct Testimony was filed, the Florida Public  
20           Service Commission addressed this issue. The Florida  
21           Commission had not released an Order as of the date this  
22           surrebuttal testimony was filed, but Exhibit JSM-2 to this  
23           testimony is a copy of the Florida Commission’s July 31, 2007  
24           Vote Sheet. As this Vote Sheet reflects, the Florida Commission

1 granted AT&T's motion to dismiss Sprint's arbitration petition  
2 "because Sprint is requesting the Commission enforce an allegedly  
3 known right (the Merger Commitments as interpreted by Sprint)  
4 under an FCC order as opposed to arbitrating an "open" issue  
5 concerning Section 251 obligations."

6

7 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL  
8 TESTIMONY?

9

10 A. Yes, it does.

11

12 686469

## VOTE SHEET

July 31, 2007

**Docket No. 070249-TP** – Petition by Sprint Communications Company Limited Partnership and Sprint Spectrum Limited Partnership d/b/a Sprint PCS for arbitration of rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

**Issue 1:** Should the Commission grant AT&T's Motion To Dismiss?

**Recommendation:** Yes. The Commission should grant AT&T's Motion to Dismiss because Sprint is requesting the Commission enforce an allegedly known right (the Merger Commitments as interpreted by Sprint) under an FCC order as opposed to arbitrating an "open" issue concerning Section 251 obligations.

**APPROVED**

**COMMISSIONERS ASSIGNED:** All Commissioners

COMMISSIONERS' SIGNATURESMAJORITYDISSENTING

*nee A. De*  
*Katrina McMurrian*  
*[Signature]*  
*[Signature]*  
*[Signature]*

\_\_\_\_\_  
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DOCUMENT NUMBER-DATE  
06555 AUG-1 20

FPSC-COMMISSION CLERK

REMARKS/DISSENTING COMMENTS:

Staff's oral recommendation to deny the motion for oral argument filed by Sprint was approved.



Vote Sheet

July 31, 2007

Docket No. 070249-TP – Petition by Sprint Communications Company Limited Partnership and Sprint Spectrum Limited Partnership d/b/a Sprint PCS for arbitration of rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

(Continued from previous page)

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed because the matter has been dismissed and no other issues need to be addressed by the Commission.

**APPROVED**

STATE OF SOUTH CAROLINA                    )  
                                                          )        CERTIFICATE OF SERVICE  
COUNTY OF RICHLAND                    )

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for AT&T South Carolina (“AT&T”) and that she has caused AT&T South Carolina’s Surrebuttal Testimony of J. Scott McPhee in Docket No. 2007-215-C to be served upon the following on August 6, 2007.

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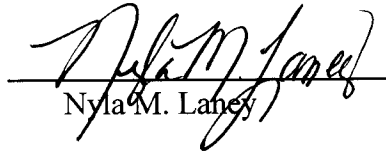
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